

with section 1164 of the Act or for pneumococcal vaccine and its administration.

(2) The beneficiary is responsible for blood deductible expenses, as specified in § 410.161.

(3) The Federally qualified health center agrees not to charge the beneficiary (or any other person acting on behalf of a beneficiary) for any Federally qualified health center services for which the beneficiary is entitled to have payment made on his or her behalf by the Medicare program (or for which the beneficiary would have been entitled if the Federally qualified health center had filed a request for payment in accordance with § 410.165 of this chapter), except for coinsurance amounts.

(4) The Federally qualified health center may charge the beneficiary for items and services that are not Federally qualified health center services. However, if the item or service is covered under Part B of Medicare, and the Federally qualified health center agrees to receive Part B payment under the assignment method, the Federally qualified health center may not charge the beneficiary more than 20 percent of the Part B payment.

(d) *Refunds to beneficiaries.* (1) The Federally qualified health center must agree to refund as promptly as possible any money incorrectly collected from Medicare beneficiaries or from someone on their behalf.

(2) As used in this section, “money incorrectly collected” means any amount for covered services that is greater than the amount for which the beneficiary was liable because of the coinsurance requirements specified in part 410, subpart E.

(3) Amounts also are considered incorrectly collected if the Federally qualified health center believed the beneficiary was not entitled to Medicare benefits but—

(i) The beneficiary was later determined to have been so entitled;

(ii) The beneficiary’s entitlement period fell within the time the Federally qualified health center’s agreement with HCFA was in effect; and

(iii) The amounts exceed the beneficiary’s coinsurance liability.

(e) *Treatment of beneficiaries.* (1) The Federally qualified health center must agree to accept Medicare beneficiaries for care and treatment.

(2) The Federally qualified health center may not impose any limitations with respect to care and treatment of Medicare beneficiaries that it does not also impose upon all other persons seeking care and treatment from the Federally qualified health center. Failure to comply with this requirement is a cause for termination of the Federally qualified health center’s agreement with HCFA in accordance with § 405.2436(d).

(3) If the Federally qualified health center does not furnish treatment for certain illnesses and conditions to patients who are not Medicare beneficiaries, it need not furnish such treatment to Medicare beneficiaries.

§ 405.2436 Termination of agreement.

(a) *Termination by Federally qualified health center.* The Federally qualified health center may terminate its agreement by—

(1) Filing with HCFA a written notice stating its intention to terminate the agreement; and

(2) Notifying HCFA of the date on which the Federally qualified health center requests that the termination take effect.

(b) *Effective date.* (1) Upon receiving a Federally qualified health center’s notice of intention to terminate the agreement, HCFA will set a date upon which the termination takes effect. This effective date may be—

(i) The date proposed by the Federally qualified health center in its notice of intention to terminate, if that date is acceptable to HCFA; or

(ii) Except as specified in paragraph (2) of this section, a date set by HCFA, which is no later than 6 months after the date HCFA receives the Federally qualified health center’s notice of intention to terminate.

(2) The effective date of termination may be less than 6 months following HCFA’s receipt of the Federally qualified health center’s notice of intention to terminate if HCFA determines that termination on such a date would not—

(i) Unduly disrupt the furnishing of Federally qualified health center services to the community; or

(ii) Otherwise interfere with the effective and efficient administration of the Medicare program.

(3) The termination is effective at the end of the last day of business as a Federally qualified health center.

(c) *Termination by HCFA.* (1) HCFA may terminate an agreement with a Federally qualified health center if it finds that the Federally qualified health center—

(i) No longer meets the requirements specified in this subpart; or

(ii) Is not in substantial compliance with—

(A) The provisions of the agreement; or

(B) The requirements of this subpart, any other applicable regulations of this part, or any applicable provisions of title XVIII of the Act.

(2) *Notice by HCFA.* HCFA will notify the Federally qualified health center in writing of its intention to terminate an agreement at least 15 days before the effective date stated in the written notice.

(3) *Appeal.* A Federally qualified health center may appeal HCFA's decision to terminate the agreement in accordance with part 498 of this chapter.

(d) *Effect of termination.* When a Federally qualified health center's agreement is terminated whether by the Federally qualified health center or HCFA, payment will not be available for Federally qualified health center services furnished on or after the effective date of termination.

§ 405.2440 Conditions for reinstatement after termination by HCFA.

When HCFA has terminated an agreement with a Federally qualified health center, HCFA will not enter into another agreement with the Federally qualified health center to participate in the Medicare program unless HCFA—

(a) Finds that the reason for the termination no longer exists; and

(b) Is assured that the reason for the termination of the prior agreement will not recur.

§ 405.2442 Notice to the public.

(a) When the Federally qualified health center voluntarily terminates the agreement and an effective date is set for the termination, the Federally qualified health center must notify the public prior to a prospective effective date or on the actual day that business ceases, if no prospective date of termination has been set, through publication in at least one newspaper in general circulation in the area serviced by the Federally qualified health center of the—

(1) Effective date of termination of the provision of services; and

(2) Effect of termination of the agreement.

(b) When HCFA terminates the agreement, HCFA will notify the public through publication in at least one newspaper in general circulation in the Federally qualified health center's service area.

§ 405.2444 Change of ownership.

(a) *What constitutes change of ownership—*(1) *Incorporation.* The incorporation of an unincorporated FQHC constitutes change of ownership.

(2) *Merger.* The merger of the center corporation into another corporation, or the consolidation of two or more corporations, one of which is the center corporation, resulting in the creation of a new corporation, constitutes a change of ownership. (The merger of another corporation into the center corporation does not constitute change of ownership.)

(3) *Leasing.* The lease of all or part of an entity constitutes a change of ownership of the leased portion.

(b) *Notice to HCFA.* A center which is contemplating or negotiating change of ownership must notify HCFA.

(c) *Assignment of agreement.* When there is a change of ownership as specified in paragraph (a) of this section, the agreement with the existing center is automatically assigned to the new owner if it continues to meet the conditions to be a Federally qualified health center.

(d) *Conditions that apply to assigned agreements.* An assigned agreement is subject to all applicable statutes and regulations and to the terms and conditions under which it was originally